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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,859	04/24/2001	Adam G. Malofsky	7962801/502	5663

7590 02/10/2004  
FROST BROWN TODD LLC  
2200 PNC Center  
201 East Fifth Street  
Cincinnati, OH 45202

EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE - 3 - MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 11/22/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-67 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1-67 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-67 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. More particularly, applicants' statements in the independent claims, i.e. such as in claim 1, last three lines, claim 6, claims 60 and 61 wherein it is recited that the "test surface" can be "in contact with said inward side of the adhesive" (claim 1) is simply not understood. This is because, e.g. in claim 1 (and in the other cited claims as well) it is cited that the adhesive is "on at least one surface of said susceptor", and if such is the case it is not understood how the "test surface" can be in contact with the inward side of the adhesive. Clarification is requested.

4. Claims 1-67 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point

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out and distinctly claim the subject matter which applicants regard as the invention. More particularly, applicants' independent claims, particularly claim 1 are seen, despite the recent claim amendments, to be vague, indefinite and confusing. For example, in claim 1, line 5, the phrase "onto on" followed by the "i.e." phrases in two places in the claim makes the claim vague, indefinite, and clearly informal. Additionally, claim 6 appears to be a duplicate of claim 5. In claim 60, line 5, it is not clear to the Examiner how the deletion of "against" so that the "test surface" is now "on the inward side of the adhesive" defines a structure that is not vague, indefinite and confusing, as was also pointed out in the previous paragraph. The Examiner further notes that applicants' remarks (page 13, third paragraph) to the effect that the chosen language is "really irrelevant" is confusing, particularly since, as was pointed out above, the claimed structure particularly as set forth in claims 1, 6, 60 and 61 (and perhaps elsewhere) is far from clear, particularly on the issue of how a susceptor sheet having an adhesive "on at least one surface" can also have a different surface "in contact" with the side of the adhesive that is presumably adjacent to the susceptor sheet. As above, clarification is requested.

5. Claims 1-67 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brooks, substantially for the reasons set forth of

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record most particularly in paragraph No. 3 of Paper No. 3, together with the following additional observations. The Examiner, as was pointed out above, is not quite certain as to just exactly what structures are being claimed by applicants, but notes again that it is believed that applicants' structure reads upon a thin sheet characterized as a "susceptor" which is at least partially coated on at least one surface with a suitable heat activatable adhesive. Also, note again column 3, lines 31-37 which teach that the adhesive may be provided in almost any pattern, either, e.g., as a continuous layer or as one or more longitudinally extending ribbons or beads or as individual beads or in a pattern or the like. With respect to the Declaration of Mark Holzer, it can only be noted that this document is not commensurate in scope with applicants' claims, <sup>as</sup> test embodiments such as "Test Sample 1" which are at least five layer laminates ~~that~~ are not commensurate in scope with applicants' claims; and furthermore applicants' remarks such as (Response, page 14, bottom paragraph) that the "ultrathin layer of the susceptor material itself" is not present in the independent claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (571) 272-1486. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (571) 272-1478. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-0994.

Dzirker:cdc

January 29, 2004

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP ~~1900~~  
1700

*Daniel Zirker*